

Resolution 04-04

WHEREAS, Washington State has a compelling interest in promoting beneficial uses of its marine waters, ensuring water quality, preserving the marine environment, and preventing human diseases that might result from contamination of drinking water, recreational bathing areas, and aquatic food sources;

WHEREAS, the State must be able to act proactively to protect these interests when they are threatened;

WHEREAS, twenty-two of the ninety-six commercial shellfish growing areas classified by the State are threatened, and harvesting is prohibited at seven areas because of bacteriological contamination;

WHEREAS, aquatic life in Hood Canal and other marine waters of the state is threatened by a lack of dissolved oxygen that results from an overabundance of nitrogen compounds and other nutrients;

WHEREAS, the quality of marine and surface water is determined by a complex mix of natural and human factors, and failing and poorly maintained onsite septic systems near marine shorelines are among the many contributors to bacteriological contamination and deoxygenation of marine waters;

WHEREAS, counties governments, local health jurisdictions, the Board, and other state agencies share overlapping constitutional and statutory authorities for water quality protection and septic regulation.

WHEREAS, the Board's statutory authority for septic regulation is specific to eliminating, preventing and controlling human health hazards and related nuisances;

WHEREAS, the Legislature has repeatedly indicated that septic planning aimed at preventing environmental degradation is primarily a local government function and that Ecology is the lead state agency for addressing environmental threats and reviewing local plans;

WHEREAS, local septic system operation and maintenance programs requiring renewable and revocable permits are resource intensive and difficult to implement without adequate authorities, community support and adequate funding;

WHEREAS, State and local public health officials lack clear authority to inspect private systems without the property owners' consent;

WHEREAS, local public health programs in Washington State are seriously underfunded;

WHEREAS, a truly effective program for onsite wastewater risk management, in addition to requiring regular maintenance of septic systems, would ensure performance testing and the proactive identification and remediation of pollution sources;

WHEREAS, the Board, during its current rulemaking process, has committed itself to doing everything it can, given its statutory authority and recognizing the resource limitations of local health jurisdictions, to protect marine waters from public health threats resulting from onsite septic systems;

WHEREAS, despite the Board's best efforts in regard to the proposed rules, that State does not have a system in place that fully protects marine waters from degradation by onsite septic systems, or that gives the State the ability to respond in a proactive and effective manner before they are threatened;

THEREFORE BE IT RESOLVED that the Washington State Board of Health shall complete the existing rulemaking process and—in cooperation with the Department of Health and the local health jurisdictions, and stakeholders—enact new, evidence-based standards for onsite septic systems.

BE IT FURTHER RESOLVED that counties and local health jurisdictions should develop, consistent with the proposed rules, written plans for the development and management of on-site septic systems that assess areas of concern, develop strategies to protect those areas from contamination, and determine the resources that are needed to implement those strategies.

BE IT FURTHER RESOLVED that the Washington State Board of Health recommends that the Governor, in consultation with state agencies, local public health officials and local governments, consider legislative solutions, which might include: (1) reducing barriers to local health officials seeking administrative warrants to access private property in order to inspect septic systems; (2) providing prosecutorial support for local health officers seeking to enforce compliance with septic regulations; (3) establishing legislative direction that the Department of Ecology should exercise its existing authority to enact rules to reduce water quality degradation from onsite septic systems and should do so in collaboration with the Board so that local governments are not required to implement two different sets of administrative rules regarding septic systems; and (4) providing State funding to help local jurisdictions develop information systems and other infrastructure requirements needed to implement effective septic management programs.